

**OPINION
43-47**

May 24, 1943 (OPINION)

DRUGS

RE: Drugs

This is in reply to your inquiry of May 5th in which you inquire our opinion as to whether vitamin products in concentrated form should be regarded as foods or drugs, and if as drugs whether their sales must be made through registered pharmacists as provided by law for other drugs.

We have considered this question very carefully, and have made a study of the situation and the literature available on the question.

It is our opinion, on the basis of present information, that in concentrated form, that is, in pills, capsules, tablets, or drops, vitamin preparations are to be regarded as drugs, and as such must be sold, under our law, through registered pharmacists, as provided by section 475 C.L. 1913, et seq.

The Federal Food and Drug Act defines drugs as those products listed in the United States Pharmacopoeia, and in the XII Revision of that work we find the vitamins listed in a similar manner as other drugs, with dosages given. It is our understanding that vitamins as such have no caloric value and act only as a sort of catalyst. In themselves they do not contribute to the growth or nourishment of body tissues.

Where the vitamin is added to the flour, the resulting bread containing the vitamin is a food, but when the vitamin is isolated and retailed in a concentrated form, we believe it to fall in the classification of a drug. It is true that at least one court has declared such products to be a food, but our own Supreme Court has never passed on the question. We believe that for the protection of the public, the proper interpretation is to call these products as drugs, subject to the laws relating to the sale of drugs rather than food.

ALVIN C. STRUTZ
Attorney General